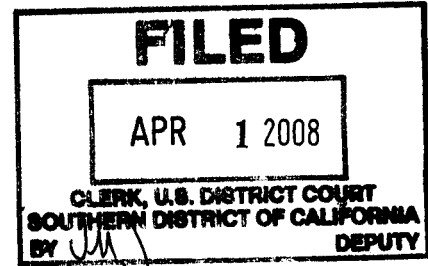


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UNITED STATES OF AMERICA



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

08cr960-IEG

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
LISA MARIE GOMEZ,)
)
Defendant.)
_____)

Magistrate Case No. 08MJ0824

**STIPULATION OF FACT AND JOINT
MOTION FOR RELEASE OF
MATERIAL WITNESS(ES) AND
ORDER THEREON**

(Pre-Indictment Fast-Track Program)

IT IS HEREBY STIPULATED AND AGREED between the plaintiff, UNITED STATES OF AMERICA, by and through its counsel, Karen P. Hewitt, United States Attorney, and W. Mark Conover, Assistant United States Attorney, and defendant LISA MARIE GOMEZ, by and through and with the advice and consent of defense counsel, Elizabeth Barros, Federal Defenders of San Diego, Inc., that:

1. Defendant agrees to execute this stipulation on or before the first preliminary hearing date and to participate in a full and complete inquiry by the Court into whether defendant knowingly, intelligently and voluntarily entered into it. Defendant agrees further to waive indictment and plead guilty to the pre-indictment information charging defendant with a non-mandatory minimum count of Bringing in Aliens Without Presentation and Aiding and Abetting, in violation of 8 U.S.C. § 1324(a)(2)(B)(iii) and 18 U.S.C. § 2.

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WMC:jam:3/19/08

1 2. Defendant acknowledges receipt of a plea agreement in this case and agrees to
2 provide the signed, original plea agreement to the Government not later than five business days
3 before the disposition date set by the Court.

4 3. Defendant agrees to plead guilty to the charge pursuant to the plea agreement on or
5 before **April 16, 2008**.

6 4. The material witnesses, Rocio Calderon-Canseco, in this case:

7 a. Is an alien with no lawful right to enter or remain in the United States;

8 b. Entered or attempted to enter the United States illegally on or about
9 March 14, 2008;

10 c. Was found in a vehicle driven by defendant at the San Ysidro, California Port
11 of Entry (POE) and that defendant knew or acted in reckless disregard of the fact that she was an
12 alien with no lawful right to enter or remain in the United States;

13 d. Was concealed inside a non-factory compartment located in the side wall of
14 the vehicle, from which she could not free herself;

15 e. Was paying \$4,000 to others to be brought into the United States illegally
16 and/or transported illegally to her destination therein; and,

17 f. May be released and remanded immediately to the Department of Homeland
18 Security for return to her country of origin.

19 5. After the material witness is ordered released by the Court pursuant to this stipulation
20 and joint motion, if defendant does not plead guilty to the charge set forth above, for any reason, or
21 thereafter withdraws ^{his} guilty plea to that charge, defendant agrees that in any proceeding,
22 including, but not limited to, motion hearings, trial, sentencing, appeal or collateral attack, that:

23 a. The stipulated facts set forth in paragraph 4 above shall be admitted as
24 substantive evidence;

25 b. The United States may elicit hearsay testimony from arresting agents
26 regarding any statements made by the material witness provided in discovery, and such testimony
27 shall be admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as statements against interest

1 of an unavailable witness; and,

2 c. Understanding that under Crawford v. Washington, 124 S. Ct. 1354 (2004),
3 "testimonial" hearsay statements are not admissible against a defendant unless defendant confronted
4 and cross-examined the witness who made the "testimonial" hearsay statements, defendant waives
5 the right to confront and cross-examine the material witness in this case.

6 6. By signing this stipulation and joint motion, defendant certifies that defendant has
7 read it (or that it has been read to defendant in defendant's native language). Defendant certifies
8 further that defendant has discussed the terms of this stipulation and joint motion with defense
9 counsel and fully understands its meaning and effect.

10 Based on the foregoing, the parties jointly move the stipulation into evidence and for the
11 immediate release and remand of the above-named material witness to the Department of Homeland
12 Security for return to her country of origin.

13 It is STIPULATED AND AGREED this date.

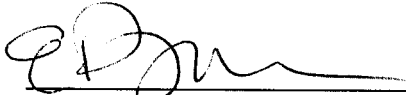
14 Respectfully submitted,

15 KAREN P. HEWITT
16 United States Attorney

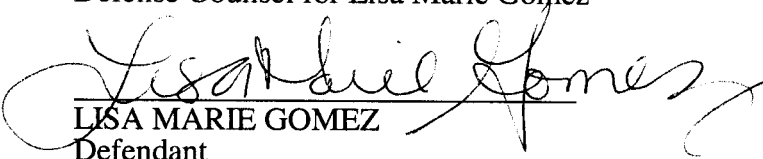
17 Dated: 4/1/08.


18 W. MARK CONOVER
Assistant United States Attorney

19 Dated: 3/21/08.


20 ELIZABETH BARROS
21 Defense Counsel for Lisa Marie Gomez

22 Dated: 3/21/08.


23 LISA MARIE GOMEZ
24 Defendant

25

26

27

28

ORDER


Upon joint application and motion of the parties, and for good cause shown,

THE STIPULATION is admitted into evidence, and,

IT IS ORDERED that the above-named material witness be released and remanded forthwith to the Department of Homeland Security for return to her country of origin.

SO ORDERED.

Dated: 4/1/08


United States Magistrate Judge